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2005 FEB 25 A 9 31

February 24, 2005

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**BY HAND DELIVERY**

Mr. Lawrence H. Norton  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 5637

Dear Mr. Norton:

On behalf of 21<sup>st</sup> Century Democrats ("the Committee"), I write to respond to the complaint in the above-referenced matter. The complaint alleges no specific facts that, if proven true, would present a violation by the Committee. Accordingly, the Commission should dismiss the complaint summarily.

**I. FACTUAL DISCUSSION**

21<sup>st</sup> Century Democrats is a "political committee" and a "nonconnected committee," as those terms are used by Commission regulations. See 11 C.F.R. §§ 100.5, 106.6 (2004). Pursuant to 11 C.F.R. § 102.5(a) and 11 C.F.R. § 106.6, the Committee maintains federal and nonfederal accounts to finance political activity in federal and nonfederal elections, respectively. The Committee allocates its administrative expenses and generic voter drive activities pursuant to 11 C.F.R. § 106.6(b).

21<sup>st</sup> Century Democrats engaged in an array of activities across the nation during the 2004 election cycle – at both the federal and nonfederal levels. For example, it engaged in a generic voter drive called the "Young Voter Project," to mobilize young people in Ohio, Oregon, Minnesota and Nevada. Conducted and financed in accordance with 11 C.F.R. § 106.6(b)(1)(iii), the project was modeled to see whether on-the-ground, peer-to-peer field operations could have a greater effect than traditional media campaigns directed at 18 to 34-year-old voters. In full accord with 11 C.F.R. §§ 102.5 and 106.6, the Committee financed these activities with funds raised for its federal and nonfederal accounts, respectively.

Among the funds raised by the Committee for its nonfederal account were three \$100,000 donations from Matt Entenza, who is the Democratic leader of the Minnesota House of

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Representatives. Mr. Entenza made his first donation by check dated July 1, 2004. *See* Exhibit A. His subsequent donations were made on August 10, 2004, and October 5, 2004, and were made by wire transfer directly to the Committee's nonfederal account. *See id.*

Committee documents and public records relating to these transactions show clearly that Mr. Entenza's donations were designated for and deposited into the nonfederal account. The Committee's record of the July 1, 2004, check indicates that it was treated as a nonfederal donation. The wire transfer records corresponding to the August 10 and October 4 donations show that the transfers were made directly into the Committee's nonfederal account. *See* Exhibit A. Finally, the Committee disclosed each of these donations to the Internal Revenue Service on Form 8872.

## II. LEGAL ANALYSIS

The facts present no violation of the Act. Shorn of its conclusory allegations, the complaint alleges simply that an individual made donations to the nonfederal account of an allocating federal PAC, and that the PAC used those funds to pay the nonfederal share of allocable expenses.

Whether the PAC said publicly that its generic activities might benefit state candidates, Congressional candidates or the presidential ticket is immaterial. *See* Compl. at 2. The regulations allow allocation of generic voter drive expenses precisely because they "affect both federal and nonfederal elections ..." *Methods of Allocation Between Federal and Non-Federal Accounts*, 55 Fed. Reg. 26,058, 26,059 (1990). The complaint in no way alleges that the PAC failed to pay the appropriate federal share of these expenses. To the contrary, the PAC properly allocated these expenses.

The Commission has repeatedly refused to find reason to believe that a violation has occurred under these circumstances. The complaint must set forth sufficient specific facts which, if proven true, would actually constitute a violation. *See* Commissioners Mason, McDonald, Sandstrom, Smith, Thomas and Wold, Statement of Reasons, MUR 5141; Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons, MUR 4972; Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons, MUR 4960. "Mere speculation will not support an RTB finding." Statement of Reasons, MUR 4972. Moreover, even if the complaint makes specific factual allegations, the Commission will nonetheless dismiss it, if the allegations "are refuted with sufficiently compelling evidence provided in the response to the complaint ... or available from public sources ..." *Id.*

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**Here, the complaint alleges no violation of the Act. It simply alleges permissible donations to a nonfederal account, and the permissible use of those funds by the recipient for the nonfederal share of allocable activity. Moreover, the documents provided by the Committee, together with the public record, establish that the donations were in fact made to the nonfederal account.**

**For these reasons, the Commission should summarily dismiss the complaint.**

**Very truly yours,**

A handwritten signature in black ink, appearing to read "B. Svoboda", followed by a long, horizontal, wavy line.

**Brian G. Svoboda  
Counsel to 21<sup>st</sup> Century Democrats**

**Attachments**

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JULY 2, 2004


KELLY YOUNG  
EXECUTIVE DIRECTOR  
21<sup>st</sup>. Century Democrats

*Kelly*  
Dear Ms. Young,

Thanks for your solicitation for the Youth Voter program. Please find my contribution enclosed. Thanks for your hard work and the excellent work done for our youth by 21<sup>st</sup>. Century Democrats.

Yours sincerely,

*Paul*  
Paul Entenza

MATTHEW K. ENTENZA		8650
SAINT PAUL, MN 55104-0000		DATE 7-1-04
PAY TO THE ORDER OF 21 <sup>st</sup> CENTURY DEMOCRATS YOUTH VOTER \$100,000.00		
One Hundred Thousand		DOLLARS
	St. Anthony Park Bank	
MEMO Youth Voter		<i>Paul</i>

Non-Fed  
individual

28044221206

21ST CENTURY DEMOCRATS  
NON FEDERAL INDIVIDUAL  
1311 L ST NW SUITE 300 WASHINGTON DC 20005-4151

44221207  
Dear Customer:

This receipt serves as immediate notification of the following Incoming Fed  
Funds Transfer that will be CREDITED to your account. If you have any  
questions, please contact your local branch.

Dollar Amount: \$100000.00

Credit Account Number : \_\_\_\_\_  
\*\*\*\*\*

Sender ABA: \_\_\_\_\_

Sender Name: ST ANTHONY PARK SB

Sender Reference:

Receiver ABA: \_\_\_\_\_

Receiver Name: UNITED BANK  
\*\*\*\*\*

OMAD Reference# \_\_\_\_\_

Beneficiary: 21ST CENTURY DEMOCRATS NON-FEDERAL

Beneficiary Bank:  
\*\*\*\*\*

Originator Info: MATTHEW ENTENZA

Originator Bank:

Originator Bank Info:

Bank to Bank Info:  
\*\*\*\*\*

PRINT SEQUENCE #102

21ST CENTURY DEMOCRATS  
NON FEDERAL INDIVIDUAL  
1311 L ST NW SUITE 300

WASHINGTON , DC 20005-4151

*Non-Federal  
Individual*

Dear Customer:

This receipt serves as immediate notification of the following Incoming Fed  
Funds Transfer that will be CREDITED to your account. If you have any  
questions, please contact your local branch.

Dollar Amount: \$100000.00

Credit Account Number :

\*\*\*\*\*

Sender ABA: Sender Name: ST ANTHONY PARK SB

Sender Reference:

Receiver ABA: Receiver Name: UNITED BANK OF VIR

\*\*\*\*\*

OMAD Reference#

Beneficiary: 21ST CENTURY DEMOCRATS NON-FEDERAL

Beneficiary Bank:

\*\*\*\*\*

Originator Info: MATTHEW ENTENZA

Originator Bank:

Originator Bank Info:

Bank to Bank Info:

\*\*\*\*\*

PRINT SEQUENCE #98